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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STANFORD HOSPITAL & CLINICS and  
LUCILE PACKARD CHILDREN'S  
HOSPITAL,

Case No: 5:07-CV-05158-JF

Petitioners,

vs.

SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 715,

**Respondent.**

**STANFORD HOSPITAL & CLINICS  
and LUCILE PACKARD  
CHILDREN'S HOSPITAL'S  
SUPPLEMENTAL BRIEF IN  
SUPPORT OF MOTION TO  
CONTINUE DEADLINE TO  
FILE/HEAR DISPOSITIVE  
MOTIONS**

## **MOTIONS** [Local Rules 6-1 and 6-3]

Judge: Hon. Jeremy Fogel

SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-00213-JF

## Petitioner and Counter-Respondent,

vs.

STANFORD HOSPITAL & CLINICS and  
LUCILE PACKARD CHILDREN'S  
HOSPITAL

## Respondents and Counter-Petitioners.

Judge: Hon. Jeremy Fogel

**HOSPITALS' SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO CONTINUE DEADLINE TO FILE/HEAR DISPOSITIVE MOTIONS**

CASE NOS. 5:07-CV-05158-JF, 5:08-CV-00213-JF, 5:08-CV-00215-JF;  
5:08-CV-00216-JF; 5:08-CV-01726-JF; 5:08-CV-01727-JF

1 SERVICE EMPLOYEES  
2 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-00215-JF

3 Petitioner,

4 vs.

5 STANFORD HOSPITAL & CLINICS and  
6 LUCILE PACKARD CHILDREN'S  
7 HOSPITAL

Judge: Hon. Jeremy Fogel

8 Respondents.

9 SERVICE EMPLOYEES  
10 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-00216-JF

11 Petitioner,

12 vs.

13 STANFORD HOSPITAL & CLINICS and  
14 LUCILE PACKARD CHILDREN'S  
15 HOSPITAL

Judge: Hon. Jeremy Fogel

16 Respondents.

17 SERVICE EMPLOYEES  
18 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-01726-JF

19 Petitioner,

20 vs.

21 STANFORD HOSPITAL & CLINICS and  
22 LUCILE PACKARD CHILDREN'S  
23 HOSPITAL

Judge: Hon. Jeremy Fogel

24 Respondents.

25 SERVICE EMPLOYEES  
26 INTERNATIONAL UNION, LOCAL 715

Case No: 5:08-CV-01727-JF

27 Petitioner,

28 vs.

29 STANFORD HOSPITAL & CLINICS and  
30 LUCILE PACKARD CHILDREN'S  
31 HOSPITAL

Judge: Hon. Jeremy Fogel

32 Respondents.

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2       **I.     Introduction**

3       On July 2, 2008, Petitioner and Respondent in the above-captioned cases,  
 4       STANFORD HOSPITAL & CLINICS and LUCILE PACKARD CHILDREN'S  
 5       HOSPITAL (the "Hospitals"), filed their Motion to Continue Deadline To  
 6       File/Hearing Dispositive Motions (the "Motion"). To date, the Court has not acted  
 7       on the Motion.

8       While the parties filed their dispositive motions per the Court's previous  
 9       order by July 18, 2008, the Hospitals nevertheless still seek the Court's  
 10      continuance of the hearing and remaining briefing on the dispositive motions in  
 11      order to facilitate discovery of relevant facts which directly relate to the issues  
 12      raised by those motions. There are presently pending motions to compel discovery  
 13      responses against Petitioner and Respondent, SERVICE EMPLOYEES  
 14      INTERNATIONAL UNION, LOCAL 715 ("Local 715"), and related union entities  
 15      which are set to be determined on September 3, 2008 – five days *after* the presently  
 16      scheduled hearing on the dispositive motions. The discovery sought goes directly to the  
 17      issue of Local 715's existence, the use of its resources, and its representative capacity.  
 18      Thus, the Hospitals seek the Court's continuance of the dispositive motions in order to  
 19      ensure that the parties have access to and use of relevant discovery related to the issues  
 20      presented by the dispositive motions.

21

22       **A.     Factual Background**

23       This Court conducted a Case Management Conference on April 25, 2008 for each  
 24       of the above-captioned actions (the "Actions"). During that proceeding, the Court set the  
 25       date for dispositive motions and required opening briefs to be filed on July 18, 2008. The  
 26       Court also permitted the HOSPITALS to conduct discovery regarding the existence of  
 27       Local 715, its representative capacity, and the handling of its resources. *See*, Transcript  
 28       of Case Management Conference attached as Exhibit "A" to Declaration of Eileen R.

1 Ridley In Support of Motion To Continue Deadline To File/Hear Dispositive Motions  
 2 (“Ridley Decl.”) [Dkt. 40].

3 The Hospital served discovery demands to Local 715 and other relevant union  
 4 entities (including UHW, SEIU Local 521, and the International) including requests for  
 5 production and deposition notices. These requests were uniformly objected to, a paltry  
 6 amount of documents were produced, and no depositions were provided. Thus, the  
 7 Hospitals filed motions to compel discovery responses in each of the cases.

8 Further, on July 2, 2008, the Hospitals filed their Motion seeking to have the  
 9 dispositive motion deadlines and hearing continued to permit the discovery of evidence  
 10 relevant to those motions.<sup>1</sup> To date the Court has not acted on the Motion. However, the  
 11 Court has set the hearing on the motions to compel to take place on September 3, 2008 –  
 12 *five days after* the hearing on the dispositive motions.<sup>2</sup>

13 The discovery at issue concerns the existence of Local 715, the use of its assets  
 14 and its representative capacity. Since the filing of the motions mentioned herein, the  
 15 purported Trustee of Local 715, Bruce “Rusty” Smith, sought bargaining for a new  
 16 collective bargaining agreement with the Hospitals. On July 28, 2008, the Hospitals  
 17 withdrew recognition of Local 715. (*See*, Declaration of Eileen R. Ridley In Support of  
 18 Supplemental Brief In Support of Motion to Continue Deadline to File/Hear Dispositive  
 19 Motions (“Ridley Decl.”), ¶ 2, p. 3 and Exhibit A thereto). In its withdrawal of  
 20 recognition, the Hospital cited the failure of Local 715, Local 521, UHW and the  
 21 International to provide the documents and testimony needed regarding the critical issues  
 22 of Local 715’s existence, asset handling and representative capacity. Further, the union  
 23

24 <sup>1</sup> *See*, 5:07-CV-05158-JF [Dkt. # 41-45]; 5:08-CV-00213-JF [Dkt. #33-37]; 5:08-CV-  
 25 00215-JF [Dkt. #22-26]; 5:08-CV-00216-JF [Dkt. #28-32]; 5:08-CV-01726-JF [Dkt. #  
 11-15]; and 5:08-CV-01727-JF [Dkt. # 11-15].

26 <sup>2</sup> *See*, 5:07-CV-05158-JF [Dkt. # 58]; 5:08-CV-00213-JF [Dkt. #48]; 5:08-CV-00215-JF  
 27 [Dkt. #37]; 5:08-CV-00216-JF [Dkt. #43]; 5:08-CV-01726-JF [Dkt. # 26]; and 5:08-CV-  
 01727-JF [Dkt. # 26].

1 entities' strategy of withholding information was again the basis of the National Labor  
 2 Relations Board's (Region 32) July 23, 2008 decision to dismiss a charge filed by Local  
 3 715's counsel against the Hospital. (See, Ridley Decl., ¶ 3, p. 3 and Exhibit B thereto).

4 Significantly, the union entities have publically admitted in press releases that "the  
 5 international merged five locals including Local 715 into a new local – Local 521.  
 6 Several of those locals represented a few units of private sector health care workers and  
 7 at the time of the merger those units were placed in UHW because Local 521 does not  
 8 represent private sector workers [such as those working at the Hospitals]." (See, Ridley  
 9 Decl., ¶ 4, p. 3, and Exhibit C thereto). Similarly, in a story published by the Palo Alto  
 10 Weekly regarding the controversy, the following was noted:

11 The United Healthcare Workers [UHW] union has requested  
 12 a union representation election from the National Labor  
 13 Relations Board (NLRB) for employees at Stanford Hospital  
 14 and Lucile Packard Children's Hospital. [¶] The union  
 15 represents about 1,450 housekeepers, food-service workers,  
 16 nursing assistants and other employees at the two hospitals  
 17 who have been represented by the Service Employees  
 18 International Union (SEIU), Local 715. But that local merged  
 19 with SEIU, Local 521, and are now a part of United  
 20 Healthcare Workers. [¶] United Healthcare Workers is now  
 21 *trying to correct that* by requesting that the NLRB hold an  
 22 election, which will probably take about a month, according  
 23 to UHM [sic] spokeswoman Kim Curtis."

24 (See, Ridley Decl., ¶ 5, pp. 3-4 and Exhibit D thereto, emphasis added).

25 Thus, while Local 715 and the other union entities have completely refused to  
 26 provide relevant discovery in this matter regarding its existence and the use of its  
 27 resources, it simultaneously has admitted publicly that Local 715 was "merged" into

1 Local 521 – which did not represent private service employees and UHW is now trying to  
 2 “correct” the mistake.

3 **B. The Dispositive Motions Should Be Continued So As To Not Prejudice**  
 4 **the Hospitals**

5 The above-noted public admissions that Local 715 had been merged with Local  
 6 521 supports the Hospital’s contention that Local 715 did not and does not exist and  
 7 therefore cannot proceed with the Actions. This contention is at the very heart of the  
 8 pending Motions for Summary Judgment/Adjudication filed by the Hospitals and will be  
 9 the subject of the oppositions the Hospitals will file to the pending dispositive motions  
 10 filed by Local 715. However, Local 715 and the other union entities (*i.e.*, UHW, Local  
 11 521 and the International) have refused to provide the relevant discovery related to this  
 12 issue – even going so far as to refuse to produce Local 715’s Trustee, Bruce “Rusty”  
 13 Smith, for deposition. While the Hospitals have been diligent in seeking this discovery,  
 14 the union entities have conducted a concerted effort to thwart all discovery in the matter.  
 15 While pending motions to compel discovery are set to be heard on September 3, 2008 –  
 16 that hearing is five days after the presently scheduled hearing date on the pending  
 17 dispositive motions. To permit Local 715 and the other union entities to avoid discovery  
 18 of relevant facts while the Court reviews dispositive motions which in large part depend  
 19 upon the facts which are the subject of that discovery is highly prejudicial to the  
 20 Hospitals. Thus, the Hospitals request that the Court continue the hearing and remaining  
 21 briefing on the pending dispositive motions to a date which will permit the pending  
 22 discovery to be completed.

23 **B. Conclusion**

24 For the foregoing reasons, the HOSPITALS request that the Court continue the  
 25 hearing and filing deadlines associated with dispositive motions in the Actions to a date  
 26 which will permit the pending discovery to be completed.

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1 Dated: August 4, 2008

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By: /s/

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